

V-v

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

.
BARBARA E. VARNER, .
Plaintiff, . CIVIL ACTION
 . NO. 1:CV 01-0725
vs. .
 .
COMMONWEALTH OF PENNSYLVANIA, . (JUDGE YVETTE KANE)
NINTH JUDICIAL DISTRICT, .
CUMBERLAND COUNTY; CUMBERLAND .
COUNTY; S. GARETH GRAHAM, .
Individually, and JOSEPH .
OSENKARSKI, individually, .
Defendants. .
.

Volume 1
Pages 1 to 92

Deposition of: DEBRA GREEN

Taken by : Defendant

Date : April 8, 2003, 9:38 a.m.

Before : Emily Clark, RMR, Reporter-Notary

Place : Cumberland County Courthouse
Courthouse Square
Carlisle, Pennsylvania

APPEARANCES:

DEBRA K. WALLET, ESQUIRE
For - Plaintiff

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
BY: A. TAYLOR WILLIAMS, ESQUIRE
For - Defendant Commonwealth of Pennsylvania
Ninth Judicial District, Cumberland County

THOMAS, THOMAS & HAFFER
BY: PAUL J. DELLASEGA, ESQUIRE
For - Defendant Cumberland County

1 APPEARANCES (continued):

2 MONTGOMERY, McCracken, Walker & Rhoads, LLP
3 BY: DAVID J. MacMAIN, ESQUIRE
4 For - Defendant S. Gareth Graham

5 SWEENEY & SHEEHAN, P.C.
6 BY: PAUL LANCASTER ADAMS, ESQUIRE
7 For - Defendant Joseph L. Osenkarski

8
9 ALSO PRESENT:

10 MS. BARBARA E. VARNER

11 MR. S. GARETH GRAHAM

12 MR. JOSEPH L. OSENKARSKI

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I N D E X

2

WITNESS

3

Debra Green

Examination

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By Mr. Adams

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By Mr. MacMain

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EXHIBITS

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(None marked)

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1 STIPULATION

2 It is hereby stipulated by and between the
3 respective parties that sealing, certification and
4 filing are waived; and that all objections except as
to
5 the form of the question are reserved until the time
of
6 trial.

7
8 DEBRA GREEN, called as a witness, being duly
9 sworn, was examined and testified, as follows:

10 BY MR. ADAMS:

11 Q Hello. How are you, Ms. Green?

12 A. Debra.

13 Q Debra, okay. My name is Paul Lancaster Adams. This
is
14 your deposition. I actually represent Joe Osenkarski
in
15 this matter involving Ms. Varner.

16 Are you familiar with the case that Ms. Varner
has
17 filed against the county and other defendants?

18 A. Yes, I am.

19 Q And one thing we have to do is have some instruction I
20 have to give you. That will help this thing go a
little
21 smoother than if not without the instructions.

22 Have you ever been deposed before?

23 A. Never.

24 Q Okay. A deposition has the same effect as if it is in
a
25 court of law, meaning that everything you say today is

1 sworn testimony. That is supposed to be the truth to
2 the best of your ability, and can be used later in
3 processes that have to do with litigation.

4 Do you understand that?

5 A. Yes.

6 Q I'm going to ask you questions. It's important that
7 you -- not only will I ask you questions, but other
8 counsel in the room will ask you questions as well.

And

9 it's important that you listen to the questions that

are

10 asked, because we will assume that your answer to each
11 question is the truth to the best of your knowledge.

Is

12 that okay with you?

13 A. Sure.

14 Q It's also important that you wait until I finish the
15 question, which is what prompted me to give you more
16 introduction, so that you can make sure you understand
17 it clearly and we can make sure we have the right

answer

18 back.

19 Is there anything that can preclude you or would
20 preclude you from answering truthfully today?

21 A. No.

medication

22 Q That you can think of? You're not under any

23 or anything that may influence an answer that's not
24 correct?

25 A. I'm under medication but nothing that will prevent me

1 from telling the truth.

2 Q Okay. What's the medication, by chance?

3 A. Vitamins, and a prescription called Synthroid.

4 Q What is that for?

5 A. For thyroid.

6 Q Okay, okay. But that would not preclude you from
giving

7 testimony that ought to be truthful?

8 A. Not.

9 Q You have the ability to what we call read and sign,
10 because everything you say today will be transcribed
by

11 the court reporter this morning. Read and sign

12 basically allows you to look at the transcript and in

13 its draft form and you can approve it for its

14 truthfulness and to make sure it's accurate. Would
you

15 like that ability? First, I'll ask you if you'd like

16 that ability to read and sign. Some persons will
waive

17 that ability to read and take it for granted that

18 counsel here are all going to read it and make sure it

19 says what it says, anyway. But you do have the
ability

20 to look at it, make sure it's truthful in its final

21 form. Would you like that ability?

22 A. Yes. I'd like to see it.

23 Q So we'll make arrangements?

24 MR. ADAMS: Ms. Taylor, do you want to?

25 MS. WILLIAMS: I guess you can send it to me.

1 BY MR. ADAMS:

2 Q What's your name?

3 A. Debra Green.

4 Q Do you have a middle name, by chance?

5 A. Kay, K-A-Y.

6 Q And where do you reside, Ms. Green?

7 A. Exact address?

8 Q Please.

9 A. 3501 Ritner Highway in Newville, here in Pennsylvania.

10 Q How long have you had that address?

11 A. Since 1989, I believe.

12 Q And you currently work for the county; is that
correct?

13 A. Yes.

14 Q What's your position with the county?

15 A. Juvenile probation officer.

16 Q Is that probation officer 1 in the hierarchy of
things?

17 A. I believe my title is a senior probation officer.

18 Q You're currently a senior probation officer?

19 A. I believe that's what it is.

20 Q How long have you had the title of senior probation
21 officer?

22 A. I'm going to guess two years. I'm not sure exactly.
I

23 would have to check court records, you know, here in
the

24 courthouse.

25 Q Do you have an anniversary date, by chance?

1 A. February of 1995, I believe.

2 Q That's when you started with the Juvenile Probation
3 Department?

4 A. Correct.

5 Q When you first started with the Juvenile Probation
6 Department, what was your title?

7 A. Just a general probation officer.

8 Q Okay. So am I correct to say from February 1995 till
9 two years ago you were a Juvenile probation officer?

10 A. Correct.

11 Q And then two years ago till now, you would have been a
12 senior probation officer; is that correct?

13 A. Correct.

14 Q Juvenile probation officer. Did you have any other
ties
15 to the county via employment prior to 1995?

16 A. No.

17 Q What did you do before then?

18 A. I was a probation officer in Franklin County.

19 Q Okay. And how long were you in Franklin County?

20 A. Approximately six months.

21 Q And before that? I may be testing your memory here.

22 A. Before that was college and then part-time jobs.

23 Q Where did you go to school?

24 A. Shippensburg University.

25 Q And do you have a degree from Shippensburg?

work

- 1 A. Yes, undergrad as well as graduate.
- 2 Q What is year graduate degree in?
- 3 A. Administration and criminal justice.
- 4 Q When were you attending Shippensburg for that degree?
- 5 A. Wow. I can't ask her, can I? Because we -- she went
- 6 the same time I did.
- 7 Q Actually, you can. Were you attending the graduate
- 8 with Ms. Varner, by chance?
- 9 A. Yes. We were in the same program.
- 10 Q Did you also enter the program together?
- 11 A. Yes.
- 12 Q That would be with Ms. Varner?
- 13 A. Yes, we did.
- 14 Q Okay.
- 15 A. Dates on these things aren't important to me, so I
- 16 apologize.
- 17 Q That's okay. What prompted you to attend Shippensburg
- 18 University for the graduate degree?
- 19 A. Well, that was a steppingstone in our department to
- 20 increase in level and pay grade, so that was one
- 21 incentive. But I figured it's always good to improve
- 22 any opportunities, and that was a free opportunity.
- 23 Q Did the Juvenile Probation Department encourage
- 24 furthering education?
- 25 A. No, because I really didn't know about the program

wasn't
issue.

1 until -- I found about it on my own, so I really
2 informed by anybody here. That really wasn't an

3 Q Did Ms. Varner, by chance, tell you about the program?

4 A. No. I think I'm the one that told her about it.

5 Q Okay. The Juvenile Probation Department certainly
6 didn't discourage further education, did they?

7 A. No. Ken Bolze was our chief then, and he approved and
8 encouraged, once I presented the idea to him, he gave
us

9 a good -- he gave me a good support letter. I'm
10 assuming he did the same for her. We had to have our
11 chief's support in order to do the program.

12 Q Okay. And who was the chief at the time?

13 A. That was Ken Bolze.

14 Q Okay. When you were attending Shippensburg University
15 for your graduate degree, would you say the degree or
16 the program was very difficult?

17 A. Pieces of it were difficult for me.

18 Q Can you explain a little bit in that area?

19 A. I have to study hard to earn a decent grade, a passing
20 grade. Some people it seems to come easier to, and
some

21 people in our class appeared to have an easier time of
22 getting their grades than I did. Does that answer
your

23 question?

24 Q But you went through it successfully, obviously?

25 A. Yes, I did.

1 Q What were your observations of Ms. Varner's experience
2 going through the program?

3 A. As an ability to learn? And do the program? I think
4 she had an easier time of it than I did.

5 Q Okay. Why do you say easier time? Can you explain
6 that?

7 A. I'm going to say she was smarter than I was. I think
8 she had an easier time of learning and understanding
9 what we were supposed to be learning.

10 Q Okay. Does she handle tasks a little better than you?
11 Is that what you would say?

12 A. I'm not sure if I'd word it quite that way, but when
it
13 came to the studies, I thought she did better than I
14 did.

15 Q Okay.

16 A. She helped me, but I still had a harder time than her.

17 Q How did she help you doing studies?

18 A. If I wasn't clear on something the teacher said, I
mean,
19 she would be there and she would help. We did
projects

20 together, which we had to work with teams and stuff,
in
21 pairs. And in working with her, I always felt that I
22 had a good partner in doing that process.

23 Q So obviously you and Ms. Varner were juggling the
24 full-time employment of Juvenile Probation Department
as
25 well as the graduate program at Shippensburg
University;

1 is that correct?

2 A. Correct.

3 Q And in your opinion, at least, she seemed to handle
that

4 a little better than you; is that correct?

5 A. She certainly appeared that way. She didn't seem
nearly

6 as flustered as I felt.

7 Q Very well. Thank you. Any interest in having a
Ph.D.?

8 A. No.

9 Q Are you familiar with Ms. Varner's interest in having
or

10 obtaining a Ph.D. as well?

11 A. Yes. She's told me about some of her classes.

12 Q What has she told you?

13 A. That she has class, like, certain nights, I don't
know.

14 She told me what she's doing, but frankly, I haven't

15 understood parts of it because it's a level above.
I'm

16 making myself sound stupid and I don't think I am.

But

17 she -- that's her niche and I have no interest in that

18 at this point.

19 Q Okay. You said some of the stuff is above your head.

20 What kind of buzz words has she said to you about her

21 Ph.D. studies?

22 A. I can't recall anything off the top. It's been a
while.

23 It's been, like, several months since she shared any
of

24 her projects or anything with me, research type

25 projects. I really can't elaborate much more than
that.

handled 1 Q In your experience would you say that Ms. Varner
2 the Ph.D. program similar to the graduate program, in
3 that she was able to successfully go through classes
and 4 do well while also dealing with full-time employment
and 5 other things in life as well?
6 A. I would say yes, because she never came in and
7 complained as in I can't do this, this is horrible, I
8 don't like this. She has made comments that it is
9 challenging, but she never has made any comments about
10 wanting to quit the program.
11 Q Sure. Are you and Ms. Varner friends?
12 A. We are now, since, I mean, since we became employees.
I 13 consider myself her friend.
14 Q Okay. And if things were going bad, would you be the
15 person or one of the persons she may talk to about
16 things going bad?
17 A. I would be one, yes.
18 Q Going back to the office of the Juvenile Probation
19 Department, who do you currently report to now?
20 A. Right now it's Sam Miller is my immediate supervisor.
21 Q And how long has it been Sam Miller?
22 A. Six months, approximately.
23 Q And prior to that, who was your immediate supervisor?
24 A. Hank Thielemann.
25 Q And I'm testing your memory here. How long would you

1 have Hank Thielemann as your supervisor?

2 A. Maybe two years.

3 Q And prior to that?

4 A. I'm going to say Tom Boyer was in there as well.

5 Q Was Gary Graham ever an immediate supervisor of yours?

6 A. He was in there as well but that was before, that was
7 before, well, well before I became an intake officer.

8 And that was I guess up to the point when he was
removed

9 in our office. I claimed him as my immediate
supervisor

10 up until that point.

11 Q What's an intake officer?

12 A. I'm the first person that meets new clients. A new
13 criminal charge, juvenile charge comes in. That
client

14 is referred to an intake officer to explain the
juvenile

15 process, prepare a recommendation for court.

16 Q So you're the first line of communication with the
17 juveniles in your office?

18 A. Correct.

19 Q And you physically see them when they come into your
20 office?

21 A. Correct.

22 Q And how long did you do that?

23 A. Since '98, I believe. I would have -- I can find out
24 downstairs in my notes. I believe it was '98 when
they

25 created that position.

case

is

see

very

generally

1 Q And you did it for how long? I'm sorry, I may have
2 missed that.

3 A. I still do.

4 Q You're still doing that, okay. So along with your
5 responsibilities, you are the intake officer as well;
6 that correct?

7 A. No. My responsibilities are solely intake and that is
8 my caseload. Those same pending cases are my people.

9 Q So you see all the juveniles?

10 A. Well, about half. The other half to go my co-worker,
11 Bill Brandt.

12 Q There's another intake officer?

13 A. Yes.

14 Q What's that person's name?

15 A. Bill Brandt. William Brandt.

16 Q Okay. Describe the juveniles that you see, that you
17 come into the Juvenile Probation Department for the
18 first time and you're the first person they see upon
19 that experience.

20 A. A lots of kids will come in and they do the defensive
21 stance, they sit like this (indicating). I think they
22 expect us to pick on them or bully them. But
23 by the time they leave they've answered all my
24 questions. And I would say for the good part, 98
25 percent are very, maybe not very respectful, but they

mean, 1 will answer questions and they're usually not the

2 evil, hateful kids people assume they are.

not 3 Q Sure, sure. Can you explain to me what you mean by

4 very respectful?

5 A. Defensive, slouched down. They don't answer your

with 6 questions with anything more than a yeah, you know,

7 an attitude, or maybe I wouldn't be here, you know, if

8 mom didn't do this or that. Very defensive type

9 comments, trying to put their -- trying to avoid

10 responsibility.

11 Q Any profanity used?

12 A. Very rarely. I've never been sworn at, put it that

way. 13 I will have clients swear at their mother or father.

14 I've had that happen different times.

15 Q Would you say that the clients have more respect for

16 their parents in these scenarios?

17 A. Yes.

clients 18 Q But you have in the office experienced juvenile

19 curse or use profanity?

20 A. Yeah, probably once or twice a year, maybe --

21 Q Really?

22 A. -- I would have a client. I think by the time they

get 23 to our office they know they have to put on a good

face 24 and they try to, at least.

25 Q Do you experience as an intake officer does not

include

as 1 you being out in the quote, unquote, out in the field

2 a practice?

3 A. Not very often. It's very -- it's rare that I am.

4 Q Is it your understanding that the Juvenile probation
5 officers and probation officers that are out -- strike
6 that.

7 Is it your experience that the Juvenile probation
8 officers in the field experience things that are
9 different from you as an intake officer?

10 A. Oh, definitely.

11 Q Would that include more, for lack of a better word,
12 hostile situations?

13 A. Only for maybe 10 percent. A few I think of the more
14 intensive clients who have had repeat offenses, poor
15 parenting, they've been through our system. But most
of

16 the clients are kids like you guys all have that just
17 have made a mistake.

18 Q But the field Juvenile probation officers, would they
19 experience juvenile clients that are less respectful
20 verbally to you as an intake officer? To your
21 knowledge.

22 A. Well, and I'm going -- I'm thinking back to when I did
23 those cases, and I didn't have an issue -- I didn't
have
24 a problem with disrespect. Very rarely did I have a
25 problem with disrespect.

1 Q So what's a typical day, briefly, for you in your
2 office?

3 A. Me, for me? Come in and it's mostly at my desk, a lot
4 of paperwork, computer work. Some court appearances.
5 Perhaps once or twice a month would be a court
6 appearance. The rest is paperwork and doing
interviews
7 with clients and families.

8 Q So you don't often travel in your intake position or
in
9 your position with the Juvenile Probation Department?

10 A. No. It's rare. I might go to the school to pick up
11 some paperwork. If clients have a problem perhaps
with
12 coming to the office, I may go to their house. But
13 that's rare.

14 Q How often would you say that you travel for the
15 Department?

16 A. Every other week, perhaps. And that's not just for my
17 position, but I would assist somebody else.

18 Q And in that example of travel, what would you be
doing?

19 A. Could be helping to transfer a client to a placement,
20 from a placement, if someone doesn't want to go alone.
21 I mean, it's encouraged to work in pairs, where just
for
22 comfort reasons and the safety issues, I may go with
23 someone to a school or to a house.

24 Q Okay. And you're teaming up with another Juvenile
25 probation officer at the time?

1 A. Correct.

2 Q Okay. How often would you team up with Ms. Varner?

3 A. Once a month, perhaps.

4 Q Once a month?

5 A. It really varies. It might be twice this month and
then
6 none for three months.

7 Q Do you recall the first time you ever teamed up with
8 Ms. Varner for a trip?

9 A. I don't. That would probably have to have been
probably
10 the first month of employment.

11 Q Did you team up with other persons in the office
besides
12 Ms. Varner?

13 A. Yes.

14 Q And how often do you team up with others?

15 A. Whenever they ask. It also depends on the gender
issue.
16 If they have -- if a male probation officer has a
female
17 client, they will try to get a female probation
officer.

18 Since I'm in the office I'm easy to access, they can
ask
19 me to help.

20 Q And when you go on trips for the office, what time do
21 you usually -- do you have day trips, for example?
22 Where you might be gone all day and then come back in
23 the afternoon or evening?

24 A. It's been a long time since I've had one of those
trips,
25 but that does happen.

1 Q What's the last time you had one of those trips?

2 A. A lot of our trips will be several hours, like maybe
3 five or six hours, if you call that a day trip.

4 Q I don't know.

5 A. Okay.

6 Q You tell me.

7 A. Like, a five, I'll say a five-hour trip, one of the
last

8 trips that took a long time was with Ms. Varner. We

9 went to pick up a female juvenile who was being

10 discharged.

11 Q Okay. And we'll get back to that, but how long ago
was

12 that?

13 A. About a month ago. Within the last month, probably.

14 Q You and Ms. Varner took a trip together within the
last

15 month?

16 A. Correct.

17 Q Okay. Where did you go?

18 A. Someplace east to a drug and alcohol rehab. I don't

19 know the name of the town.

20 Q What time did you leave? Did you report to the
Juvenile

21 Probation Department before you took the trip?

22 A. Yes. We started here, and since it isn't my client, I

23 just -- I kind of follow, and I don't know what the

24 plans were. But the clients need to be picked up at a

25 certain time so we had to make -- I'm sure the

1 arrangements were made for us to leave in according to
2 get there at that appropriate time.

3 Q At what time did you leave?

4 A. I would have to go back and look on my time sheet. I
5 would -- I'm going to guess seven o'clock in the
6 morning. Seems to me that was a day where we met in

the

7 parking lot and left early in order to get there.

8 Q Is seven o'clock to your knowledge a typical time with
9 which Juvenile probation officers may leave the office
10 for a long trip?

11 A. Well, since Gary left our office I haven't been told a
12 specific time to leave or come, so I've been more
13 flexible and choose whatever I feel is appropriate, or
14 whoever the PO is, you know, to make us match up with
15 the other person being scheduled.

16 Q Let's go back. When you say Gary was in charge?

17 A. Correct.

18 Q Okay. When Gary was in charge, was there an office-

wide

19 time for persons to leave the office or an

understanding

20 or something in writing or something along that lines
21 where everyone knew you were supposed to leave at this
22 particular time? Is that the case?

23 A. I don't know if everyone knew, because it was a verbal
24 direction that was given to me.

25 Q Okay.

1 A. And I was told that I had to leave at eight o'clock,
2 commitment trips started at eight o'clock as opposed
to 3 9:00, 10:00, 11:00, 12:00.

4 Q And Gary Graham told you himself that that's what he
5 expected?

6 A. Correct.

7 Q Okay. And from your understanding, Mr. Graham, you're
8 saying Gary, Mr. Graham's expectation of everyone in
the

9 office was to leave from the office at eight o'clock;
is 10 that correct?

11 A. I don't think that was what he expected, because other
12 people didn't do that.

13 Q What do you mean by that?

14 A. A few days or weeks after I was told that I had to
leave

15 at eight o'clock, co-workers left at 4:30 to start
their 16 trip.

17 Q Were those 4:30 trips overnight trips? Are you saying
18 4:30 a.m. or 4:30 in the p.m.?

19 A. P.m.

20 Q Okay. So those persons were leaving for night trips
as

21 opposed to day trips? Can you explain what you mean
by 22 that?

23 A. We have a place that we used to use a lot, a placement
24 for kids who had been sentenced, so to speak. That's
an

25 adult term, but they were sentenced to a place and it

1 was George Junior out near Pittsburgh. And that would
2 be an all-day trip. It would take you several hours
to
3 get out there and back. And those types of trips for
4 overtime purposes I was told to do them starting at
5 eight o'clock. And that's where my co-workers would
6 leave at 4:30 or whatever time. So I was under the
7 impression that rule held for me but not my co-
workers.

8 Q Could that rule have possibly been held for you
because
9 of your responsibilities as an intake officer and your
10 need to be in the office during the day and early in
the
11 day?

12 A. No, because I wasn't an intake officer back then. I
13 wasn't an intake officer until after Mr. Graham left
our
14 department.

15 Q Okay. So I misunderstood. I thought you had always
16 been an intake officer in the Juvenile Probation
17 Department. Is that not true?

18 A. No. No. It's been three years, roughly. '98 I
believe
19 was the year I started doing intakes. But I was hired
20 in '95.

21 Q Okay. So your understanding, and correct me if I'm
22 wrong, is that you were told that you had to leave at
23 eight o'clock in the morning for a long trip to, for
24 example, Pittsburgh, but other officers or other
members
25 in the department could leave later in the day; is
that

1 correct?

2 A. Correct.

3 Q And why do you think that difference existed?

4 A. Just a bullying part on Mr. Graham's behalf. There
was

5 no reason that he told me. There was no justification
6 given.

7 Q Could Mr. Graham have told other persons that they had
8 to leave at eight o'clock in the morning as well?

9 A. I believe he told Barb. I asked friends, other
10 co-workers if they were told the same. People that I
11 asked didn't know what I was talking about.

12 Q Would you be surprised if I said to you that a male
13 Juvenile probation officer has indicated that he has
to

14 leave at eight o'clock as well when he has to take
long
15 trips such as that or when he was working under Gary
16 Graham?

17 A. That's possible. I maybe just never knew it, if it
is.

18 No one ever -- none of the males ever offered that, or
I
19 never asked that person.

20 Q Upon Mr. Graham's instruction in terms of leaving at
21 eight o'clock in the morning, and you teaming up with
22 Ms. Varner, how many times did that scenario occur?

23 A. Could you repeat that?

24 Q Did you understand that? Okay. Under Mr. Graham's
25 instruction of you must leave at eight o'clock in the

in 1 morning for this trip, how many times did that happen

2 situations where you and Ms. Varner were teamed up?

I 3 A. I'm not a hundred percent sure I get the question, but

4 don't think it was -- I remember one incident in

5 particular.

6 Q Okay. Just one incident where Mr. Graham said Debra,

7 Ms. Green, you must leave at eight o'clock and you're

8 actually teamed up with Ms. Varner, in that scenario,

it 9 only happened once?

10 A. I wouldn't say it only happened once, but I remember

one 11 incident and that's the incident where he, I'll say

12 reprimanded me for not leaving at eight o'clock.

13 Q Okay. Again, we'll get back to that, I apologize.

But 14 could there have been other instances where you were

15 teamed up with Ms. Varner and Mr. Graham said to you,

16 you must leave at eight o'clock because it's a long

17 trip, and those were the guidelines or the

instructions? 18 A. His instructions were given to me on one time and I

19 followed them ever since, wherever I was able to.

20 Q Where is your -- do you have a desk in the office?

21 A. Yes.

22 Q Where, if I were to walk into the Juvenile Probation

23 Department, where would you be seated?

24 A. In the main Juvenile Department, I am no longer

located 25 there. We have another wing and it's down the

hallway.

1 There are two different wings of our courthouse.

2 Q How long have you been in that particular part of the
3 office?

4 A. A year and a half, maybe.

5 Q So prior to a year and a half, you were in one place
the
6 whole time since 1995; is that correct?

7 A. No.

8 Q No? Okay. Go backwards with me. Before a year and a
9 half, where were you seated and where were you
10 positioned in the office?

11 A. The location before was in the main office, physically
12 was the first office inside on the right. And prior
to
13 that, I had an office across the hall in which is now
14 considered Adult Probation.

15 Q So that you've been in total three different locations
16 physically for your office or desk while with the
17 Juvenile Probation Department; is that correct?

18 A. Four different offices.

19 Q Four different offices?

20 A. I'm sorry. Three different offices, four different
desk
21 offices.

22 Q Okay. Can you name the three offices for me? Just
real
23 quick.

24 A. And I'll try and be brief. My current office.
Previous

25 desk was located in Juvenile, the first office inside

1 the front door.

2 Q Okay.

3 A. Prior to that I was in Adult Probation and I shared an

4 office with Mike Piper and Buck McKenrick. They're
both

5 now Adult probation officers.

6 Q Let me start with that one. The Adult Probation
office,

7 you were assigned to the Juvenile Probation Office but

8 you were physically seated in the Adult Probation

9 Office; is that correct?

10 A. That's correct.

11 Q While in that particular office were you also by
chance

12 having intake with Adult probation officers?

13 A. What do you mean by intake?

14 Q Did you have intake responsibilities for Adult
officers,

15 Adult -- excuse me -- clients as well?

16 A. No.

17 Q Okay. And how long were you in the Adult Probation
18 Office? If you can recall how many years or months.

19 A. From the day I was hired I had a temporary desk in
where

20 the secretaries sit. And I was on the Adult side at
two

21 different locations. I was on the Adult side until
our

22 split happened. I believe it was when the split
between

23 Adult and Juvenile Probation, when the split occurred
I

24 think is when I moved over, shortly thereafter.

25 Q So February '95 to -- do you know when the split

1 actually occurred?

2 A. I don't recall.

3 Q When the split occurred, you were then moved to the
4 Juvenile Probation Department office?

5 A. Correct.

6 Q Okay. So between -- okay. While you were in the
7 Juvenile Probation Office is that where you met
8 Ms. Varner the first time?

9 A. The first time I met her was physically in Joe's
office,

10 Joe Osenkowski's office, prior to employment.

11 Q Okay.

12 A. That was the first day I was introduced to her.

13 Q And do you know what year that was?

14 A. I would guess it was '95. There's a slight chance it
15 could have been the end of '94, but I believe it was
16 January or February of -- probably January of '95.

17 Q Okay. So you met Ms. Varner in Mr. Osenkowski's
office.

18 When she started working, you were in the Adult,
19 physically in the Adult Probation office; is that
20 correct? In '95?

21 A. Once I was hired, that's where I was located.

22 Q Obviously, you were hired before Ms. Varner, correct?

23 A. No.

24 Q No?

25 A. We were hired the same day.

1 Q The same day. Okay. Okay. So physically -- you're
2 both hired the same day, but physically you are
3 positioned or your desk is located in the Adult
4 Probation Office?

5 A. Correct.

6 Q Where was Ms. Varner's desk located at that time?

7 A. When I mentioned I was an office partner with Buck
8 McKenrick and Mike Piper, I believe that was her first
9 desk. That was my second desk.

10 Q Okay. So while in physically in the Adult Probation
11 Office, how far is Ms. Varner to you? Seating-wise.

12 A. I would say twice the length of this room. She was in
13 different office space altogether.

14 Q So you could not necessarily see Ms. Varner?

15 A. No. There was no visual -- no.

16 Q And you were in that location for approximately two
17 years, you think?

18 A. It was less than -- it was less than that. I'm going

19 say I think it was less than that. I don't remember
20 when she got moved, because whenever she got moved

21 that desk is whenever I got moved to that desk. And I
22 don't remember when I got moved, either.

23 Q Is it safe to say that for two years or less, you had
24 very little eye-to-eye contact while sitting at your
25 desk, at least, and while Ms. Varner's sitting at her

a

to

from

1 desk between the two of you? There was little to no
2 contact; is that correct? That's probably a bad
3 question. Let me strike that question.

Between

4 While you were seated at your desk, okay?

5 February 1995 and till the split and while Ms. Varner
6 was seated at her desk, you could not see her; is that
7 correct?

8 A. Correct.

9 Q Could you hear her?

10 A. No.

11 Q If someone were to come over and talk to Ms. Varner,
12 would you have heard it then?

13 A. Not -- I would not have heard them. I would have seen
14 someone going into the office, but I would not have
15 heard anything.

Gary

16 Q Okay. During that period of time did you ever see

17 Graham go talk to Ms. Varner?

well.

18 A. I'm sure he did, because he was her supervisor as

19 Q Okay. Where was Gary Graham's desk during that time
20 between February 1995 and the split?

21 A. He was on the Juvenile side.

22 Q Okay. So he was physically not -- his desk was not
23 physically in that same office as with you and
24 Ms. Varner?

25 A. Correct.

1 Q Okay. When you were moved from the Adult Probation
2 Office to the Juvenile Probation Office, where was
your
3 seat? Where was your desk?

4 A. I believe my first desk and only desk was, if I'm
5 looking in the front door, the very first office to
the
6 right.

7 Q And where was Ms. Varner's seat or desk at that time?

8 A. She would have been, going in the front door, the
first
9 office to the front, the first office you would see.

10 Q Am I assuming correct that you both moved from the
Adult
11 Probation Office to the Juvenile Probation Office at
the
12 same time, physically moved?

13 A. No. She moved there first. I came by, I came over
14 months later.

15 Q Months later?

16 A. I'm guessing at that.

17 Q How many months in between, do you think?

18 A. Maybe six months.

19 Q So for six months you were physically in the Adult
20 Probation Office, this is I guess after the split, and
21 Ms. Varner was, had already moved before you and she
was
22 physically in the Juvenile Probation Office for six
23 months?

24 A. I know she moved before me. I'm not clear as to when
25 she moved, if it was before the split or after the

1 split. I know she was gone roughly six months before
2 me.

3 Q And currently you are in the office that you're in now
4 and that is where?

5 A. It's in what we call the wing, the Bixler building.

6 Q Is Ms. Varner in that particular area as well?

7 A. Yes.

8 Q Okay. Where is your desk in proximity to Ms. Varner's
9 desk in that part of the office or in that current
10 office?

11 A. Our desks are probably six feet apart but there's a
wall
12 between us. We have two separate office spaces.

13 Q And did you get moved to that wing office before
14 Ms. Varner?

15 A. I'm going to say yes.

16 Q When did you move there?

17 A. A year, year and a half ago, maybe. A year and a
half,
18 I would guess.

19 Q Okay. How long has Ms. Varner been there?

20 A. I don't remember. I would guess maybe -- well, I'm
21 thinking she came after me, and I'm guessing, like,
nine

22 months ago. I'm not sure I have my incidences in
order
23 in my head here.

24 Q Okay. Going back to your desk at the Adult Probation
25 Office, you said that of course you say Gary Graham
came

1 talk to Ms. Varner because he was her supervisor. Do
2 you remember that comment?

3 A. Yes.

4 Q How often would you see Mr. Graham in a week go talk
to
5 Ms. Varner?

6 A. I don't think I could even make a guess at that. I
7 didn't really take notes or -- I'm sure he wasn't the
8 only one who talked to her.

9 Q Okay. Well, is it safe to assume that Mr. Graham was
10 supervising other persons and other Juvenile probation
11 officers at the time; is that correct?

12 A. Yes.

13 Q Did you notice that he would come see Ms. Varner more
14 frequent than other Juvenile probation officers where
15 you all were located?

16 A. All I could compare it to is how often he came to see
17 me, and he came to see her much more frequently than
he
18 came to see me.

19 Q Did it ever make you pause or wonder why he was going
to
20 see Ms. Varner more than he was going to see you?

21 A. Yes.

22 Q What were you thinking?

23 A. As a new employee, on one occasion I may be frustrated
24 because I needed assistance but maybe was too
25 embarrassed to ask. I was kind of hoping I could
learn

1 the process of being an employee here perhaps a little
2 easier. I guess on one hand I was perhaps discouraged
3 that I didn't get the guidance and learning my job
that
4 I assumed she was getting.

5 On the other hand, I thought it was rather
6 inappropriate, all the attention that he was showing
to
7 her.

8 Q Okay. What do you mean by inappropriate attention?

9 A. I didn't feel all the attention was guided on a
10 professional level.

11 Q Okay. Did you think that Mr. Graham was flirting with
12 Ms. Varner?

13 A. Yes.

14 MR. DELLASEGA: The answer was yes?

15 THE WITNESS: Correct.

16 BY MR. ADAMS:

17 Q And why do you think he was flirting with her?

18 A. You could tell by comments and physical, you know,
body
19 movements, laughing. Not that we shouldn't enjoy our
20 jobs, but it was rather out of the norm.

21 Q Okay. So Mr. Graham would come in and see Ms. Varner
22 and suddenly you would see laughing and things that
were
23 talked about that had nothing to do with the office
24 work; is that correct?

25 A. Yes.

1 Q Okay. And Ms. Varner laughed with Mr. Graham? He
2 didn't laugh by himself, did he?

3 A. Well, it was -- I'm going to say it's two different
4 levels of -- I'm going to say yes, overall, yes.

5 Q Okay. And you observed him I guess from your vantage
6 point of him walking around and you would see them; is
7 that correct?

8 A. And also the reason I was hired was to be a partner
with
9 Barb, do the same program. So her and I needed to see
10 each other daily, I mean, just continually, regarding
11 our Family Preservation issues that we were to deal
12 with.

13 Q Okay. While you and Ms. Varner were in the Adult
14 Probation Office and Mr. Graham would come see
15 Ms. Varner and flirt -- can we say, is it safe to use
16 the word flirt?

17 A. That would be a good word.

18 Q Did Ms. Varner ever complain to you about these visits
19 or flirtation?

20 A. Eventually? The next question is going to be when.

21 Q I think it will be.

22 A. I would say --

23 Q Well, we can take -- let me back up here in the time
24 line. I think we're safe to say that you and Ms.
Varner
25 were physically located in the Adult Probation Office

1 for at least two years or less, from hire until the
2 split?

3 A. Roughly.

4 Q Is that correct?

5 A. Yes.

6 Q And in that time period Mr. Graham would come visit
you

7 but also visit Ms. Varner more frequently, and in
8 visiting more frequently there was conversation other
9 than work because -- including laughter between
10 Ms. Varner and Mr. Graham; is that correct?

11 A. Correct.

12 Q Okay. During this laughter did she ever complain
13 afterwards, like, say, Mr. Graham would come talk to
14 her, there would be laughter, they would share a
moment,

15 he would leave. Did she ever come and say, hey, I
don't

16 like this kind of stuff?

17 A. Initially, no. Eventually, yes.

18 Q What do you mean by eventually, yes? Where were you?
19 Were you still in the Adult Probation Office when all
of

20 a sudden eventually no?

21 A. By the time she shared her feelings, I would have been
22 located in the Juvenile Probation Office, I believe.

23 Q This is after the split?

24 A. Yes. I'm going to say yes.

25 Q Is it safe to say -- this may be jumping ahead a
little

1 bit, but is it safe to say that Ms. Varner and
2 Mr. Graham had a pretty, I guess healthy or positive
3 relationship or friendship up until a sudden moment
4 years later? Is that summarizing it?

5 A. I would not call it healthy.

6 Q Okay. What would you call it?

7 A. One-sided and unhealthy.

8 Q Is there a cafeteria in the building?

9 A. No. There used to be a break room years ago. There's
10 no actual cafeteria.

11 Q Was the break room ever used for eating lunch for the
12 employees of the courthouse?

13 A. It was open to any employee.

14 Q Okay. Did you actually use that break room?

15 A. Maybe twice.

16 Q Maybe twice? Did Ms. Varner use that break room?

17 A. Not that I'm aware of.

18 Q Who hired you?

19 A. Ideally or -- ultimately it was Judge Sheely.

20 Q Judge Sheely, okay. Do you know, and from your
21 understanding Judge Sheely had the responsibility of
22 hiring and firing in the Juvenile Probation Office?

23 A. Juvenile Probation Office.

24 Q Yes. Who has that responsibility now?

25 A. Judge Hoffer.

1 Q Who interviewed you for the job at the Juvenile
2 Probation Office?

3 A. On official interview or unofficial?

4 Q Give me examples of both, if you could. Officially,
5 starting.

6 A. My unofficial was with Mr. Graham. He knew who I was
7 and he basically recruited me.

8 My official interview was with Joe Osenkarski.
9 John Roller, and I believe it was Ken Bolze. I don't
10 think anybody else was in the room.

11 Q Okay. And from your understanding collectively those
12 persons you just named made the decision on your hire,
13 or at least recommended your hire?

14 A. Collectively? The recommendation would have been, I
15 guess it would have had to have been collective to go
16 the judge.

17 Q What's your relationship with or like with other, with
18 Juvenile probation officers in the office? What kind
19 relationship do you have with them?

20 A. I try to keep it professional. I try to share some
21 personal issues, but I try to keep it more on a
22 professional level.

23 Q Are there times where you think the office is less
24 professional?

25 A. Definitely, yes.

to

of

1 Q What do you mean by that?

2 A. Well, I don't feel that I'm here on the job to hear
3 other peoples' personal issues regarding marital
issues.

4 Well, jokes is a big issue. A lot of comments are
made
5 and taken place that don't involve or revolve around
6 juvenile probation work.

7 Q Are there comments made by everyone? Most persons?

8 A. Maybe a third that I would hear. And there are
several
9 probation officers that have never said anything to me
10 or in front of me that I considered disrespectful.

11 Q So a third of the office in your opinion might make
12 comments that you think are not appropriate?

13 A. That sounds fair, like a fair statement.

14 Q How many Juvenile probation officers do you currently
15 have in the office?

16 A. There's 20-something. 24 of us, maybe. I'm not sure.
17 22, 23, 24.

18 Q Is your description of a third -- and I guess that
19 number has changed over the years?

20 A. Correct.

21 Q Okay. Is your number of a third pretty consistent
over
22 the years, that no matter how many officers are
actually

23 in the office, about a third of them kind of make
24 comments that you don't appreciate? Is that safe?

25 A. Yes, because as new staff come on, they're -- see,

1 there's different levels of what I consider
2 inappropriate or offensive --

3 Q All right. Before I ask you what you consider
4 inappropriate, comments are made by women and men?

5 A. What I consider the extremely offensive comments,
6 they're made by men.

7 Q Okay. But the less offensive comments but still
8 offensive would come from women; is that correct?

9 A. There are two people on staff currently that I wish
did
10 not share things, but they do, with me, personal
issues.

11 Q Who are those two persons?

12 A. One is a secretary named Stephanie. The other one is
a
13 co-worker named Gail.

14 Q What's Stephanie's last name?

15 A. Kiess, K-I-E-S-S. It was Stratton.

16 Q And what did Stephanie say that you wish she hadn't
17 said?

18 A. She tells me about her love life, meaning her sex life
19 with her current boyfriend.

20 Q Okay. And without getting terribly graphic, what is
she
21 saying?

22 A. She will --

23 Q Actually, get graphic. Whatever you want to say, just
24 say it.

25 A. Well, she has said that she has a new boyfriend and
she

1 has performed or participated in sex acts that she has
2 never done before. And I did not ask the details and
3 she didn't offer.

4 Q Did she say anything else?

5 A. Items along those lines. She'll tell me about getting
6 drunk. I don't need to hear that. That's not job
7 related.

8 Q Did she ever give or say to you a joke that you didn't
9 think was appropriate as well?

10 A. Nothing comes to mind.

11 Q How long has Stephanie been employed with the Juvenile
12 Probation Office?

13 A. Maybe five years.

14 Q When she made this comment to you, were any men
around?

15 A. No.

16 Q Has Stephanie ever made any comments that you thought
17 were not appropriate for work where men were around?

18 A. I'm thinking everything was one-on-one. They might
19 have -- let me back up there.

20 Q Sure.

21 A. It occurred, one incident comes to my mind, it
occurred

22 at her desk, and I don't think anybody was behind me.

23 Q What happened on that occasion?

24 A. That was talking about her boyfriend.

25 Q Okay. So is that the only time that Stephanie has
said

Or 1 something to you that you thought was inappropriate?

2 are there other times?

her 3 A. There's been other times, and it all has to do with

4 sex life or drinking, partying life.

5 Q Okay. And you can't think of any other examples right

6 now, can you?

having 7 A. Well, when I say about drinking, she'll say about

8 been out getting drunk to the point where she's sick

or 9 her friends are sick.

10 Q Did you ever think to complain about Stephanie's

11 comments to anyone?

12 A. I told her as politely as I could, I'm, like, I don't

13 need to hear that, and I'd walk away.

14 Q Did you ever think to go to a supervisor and complain

15 about Stephanie's comments?

16 A. Not -- no. If I can't handle it, then I would. But I

17 felt that she took my comment as I didn't need to hear

18 it.

19 Q Okay. Okay.

20 A. And that's the last I've heard about her sex life.

21 Q Okay. What's the date? Do you know the date on which

22 she made this comment?

tell 23 A. I would guess within the last year, but I couldn't

meeting 24 you. It was whenever she first -- shortly after

25 this new boyfriend.

1 Q Okay. And the other comment, the other female's name,
2 I'm sorry, was who?

3 A. Is Gail, her last name is Shuhart.

4 Q Okay.

5 A. She's a current employee.

6 Q And how long has Gail Shuhart been an employee in the
7 Juvenile Probation Department?

8 A. I'm guessing -- I'm going to say ask Joe. I don't
9 remember. Maybe he would. Maybe three years.

10 Q Unfortunately, I have to find out what you know. But
11 maybe three years?

12 A. I would have to go back and look at my phone logs to
see
13 when her name showed up.

14 Q That's all right. Phone logs, what do you mean by
that?

15 A. We have a phone list of all the employees' home
phones,
16 work phones. And I keep a list with my attachments at
17 home, at work, so if I have an emergency, to contact
18 someone.

19 Q By chance, are cell phones also on that list?

20 A. Yeah. Cell phones, pagers, home phones and work
phones.

21 Q And how long has that list been in existence?

22 A. That's my own personal list and I made it, I don't
know,
23 five years ago, maybe. It's been my own, it's not an
24 office list. The office has since created one. About
25 six months ago Kathy, our secretary, made one.

1 Q But there was no list like that before?

2 A. I'm going to say no. If it was, I didn't have it.

3 That's why I made my own.

4 Q Okay, fair enough. Going back to Gail Shuhart?

5 A. Yes.

6 Q What comment did she make that you thought was

7 inappropriate?

8 A. She'll make reference to jokes or comments that were

9 made to her and she'd repeat them, and I'd just as

soon

10 not know about the issues.

11 Q And I know it's uncomfortable for you, but do you

12 remember the jokes? Do you remember the jokes?

13 A. One was a comment that Joe had made to her about her

14 looking like his ex-wife. And she didn't feel, I

guess,

15 that that was an appropriate comment and so she was

kind

16 of having fun with that comment. There was an

undertone

17 that I didn't feel was professional. I don't know how

18 better to describe that.

19 Q What was the joke? Or what was the comment by Joe,

20 first of all?

21 A. To the effect that he reminded her of his ex-wife.

And

22 I guess that had some good things as well as some bad.

23 She didn't elaborate, and I didn't ask.

24 Q Could Mr. Osenkarski, could he have just shared the

25 comment of "you look like my ex-wife" and just be

making

1 simply a statement or observation?

2 A. Could have been.

little

3 Q But Mrs. Shuhart kind of took it in another way a

4 bit; is that what you're saying?

5 A. Yes.

6 Q What did she say in connection with Mr. Osenkowski's

7 comment that was joking?

8 A. Well, it was more just by the nature, ooh, he thinks I

9 might be looking like his ex-wife. It's along that

10 line. I'm, like, I don't want to go there. I don't

11 want any boss to think I look like his ex-wife.

That's

12 a whole -- I just didn't understand why that would be

13 entertaining to her.

14 Q You don't have any information at all that suggested

15 that Mr. Osenkowski was being flirtatious when he made

16 that comment, do you?

17 A. I don't know that.

18 Q So did she say anything else about that, Ms. Shuhart?

19 A. About Joe? About --

20 Q About the comment.

21 A. Oh, not that I can recall.

22 Q You thought that joke or her joking about that was

23 inappropriate?

24 A. Yes.

25 Q Why?

a 1 A. I just felt it was unprofessional, to make any kind of
2 joke or insinuations.
3 Q Like with Stephanie, did you kind of tell Gail I don't
4 appreciate that, and then it ended there? Or what
5 occurred?
6 A. Generally when she makes a comment of something I
don't
7 approve of, it's just, like, I don't need to hear
this,
8 or you know, I can't believe you said that or did
that.
9 I have not confronted her. She's a co-worker.
I'm
10 not sure that I want to step over that boundary --
11 Q Sure.
12 A. -- and tell her what she should be doing and not
doing.
13 Q When she, when Gail Shuhart made that comment, were
you,
14 was anyone else around, or the joke, was anyone else
15 around?
16 A. I heard it from her more than once. I don't know if
17 Barb would have been in the office to hear that at
that
18 time or not.
19 Q Were other males around when she made the comment or
20 when she makes that joke or comment?
21 A. No.
22 Q Has she said anything else that you thought was
23 inappropriate?
24 A. She'll repeat comments that were made by Tom Boyer
that
25 I don't feel are something I need to hear.

1 Q What did Mr. Boyer say?

2 A. There was an issue about flowers, and right now I'm

3 drawing a blank. There was -- she received, Gail

4 received flowers. I can't recall, I can't picture in

my

5 mind the exact incident, but it was to the effect or

6 perhaps he was insinuating that he sent the flowers.

7 There was something -- there was some kind of

allusion,

8 something there that wasn't appropriate, in my

opinion,

9 and I can't put my finger on it. My apologies.

10 Q Just as an example, if someone said to you, boy, you

11 look like my wife or my ex-wife, would that offend you

12 personally?

13 A. I'm going to say yes.

14 Q Why?

15 A. If I were to say -- if I were to reverse it and make a

16 comment to a male, boy, you remind me of my ex-

husband,

17 I was married to that man, I loved that man, I slept

18 with that man, and I don't think it's appropriate for

me

19 to make those same accusations about someone else.

20 Q Why do you think it's an accusation?

21 A. It's something -- and I don't want anybody thinking

that

22 I'm somebody else's wife. To me, a wife involves

behind

23 closed doors, it's a holy commitment and I don't think

24 there should be any crossing the lines. You're either

25 married to that person or you're not.

1 Q You're a very spiritual person; is that correct?

2 A. I'd like to be. I hope to honor Him.

3 Q What church do you belong to?

4 A. Carlisle Brethren in Christ.

5 Q You're a member of that particular church?

6 A. Not a member.

7 Q What kind of relationship does Ms. Varner have with
8 other persons in the office, the Juvenile Probation
9 Office?

10 A. I would say professional. She's friends, but I don't
11 think she goes out of her way to spend time with

people

12 to become, like, extra social.

13 Q Okay. Are other persons in the office extra social?

14 A. Some are. Myself on occasion. I perhaps should spend
15 more time at my desk.

16 Q Do you think you're more social than Ms. Varner in the
17 office?

18 A. A little, but not much.

19 Q When Ms. Varner chooses to socialize, who does she
20 socialize with?

21 A. She'll be polite and talk to anybody who's, you know,
22 talks to her. I'm not sure what you're asking.

23 Q Yeah, me neither. When you are in the office and you
24 see Ms. Varner, who does she talk to? Who have you

seen

25 her talk to socially? With regularity.

1 A. Probably I would say Nicole Horick -- or Nicole
2 Galbraith. She sees her, not very often but I would
put
3 them on a social level. And Kerry Houser. And Winnie
4 Stern. They're possibly the three key people.
5 Q Are you friends with Nicole, Kerry, and Winnie, that's
6 Winnie?
7 A. Yes.
8 Q Are you friends with them as well?
9 A. Yes. I don't know them to a real deep extent.
10 Q Okay. But would you say Ms. Varner is closer to
Nicole,
11 Kerry and Winnie than you are?
12 A. She's closer to Kerry and Nicole. I would say I'm
13 closer to Winnie than she is.
14 Q She's closer to Kerry and Nicole, and you're closer to
15 Winnie?
16 A. That's correct.
17 Q Okay. And from your understanding, Ms. Varner's
18 friendship with Nicole and Kerry extends outside the
19 office as well?
20 A. I don't think it extends out, as in I don't hear them
21 making plans to do things together.
22 Q Does your friendship with Ms. Varner extend outside
the
23 office?
24 A. I'm going to say no. There's been occasions where
we've
25 done things together, but it's -- like, we don't hang

1 out on Friday nights. I mean, we live so far apart.
2 She's not a friend that I call when I'm out of the
3 office.
4 Q What's Gary Graham, what was Gary Graham's
relationship
5 like with other persons in the office when he was
there?
6 Juvenile Probation Office.
7 A. Could you elaborate more?
8 Q Was he likable?
9 A. He was tolerable.
10 Q Is that your opinion, or you think that's the
consensus?
11 Where did that come from?
12 A. That's my opinion, and that would probably, you could
13 probably find a lot of staff to agree with that.
14 Q Certainly he had persons or staff that actually liked
15 him; isn't that correct?
16 A. I can't confirm that.
17 Q Do you like Gary Graham?
18 A. I did. I have no respect for him now.
19 Q When did you stop liking Mr. Graham?
20 A. My respect left as I became closer to the situation
that
21 was going on between the two of them.
22 Q What is your understanding -- that being Ms. Varner,
is
23 that correct?
24 A. Yes.
25 Q And what's your understanding of the situation that
was

1 taking place between Ms. Varner and Mr. Graham?

2 A. His friendship or his liking her changed, and he
started

3 to mistreat her.

4 Q When do you think that occurred?

5 A. Within a year, between a year and two years after we
6 were hired.

7 Q Okay. So you were hired in February 1995?

8 A. Correct.

9 Q And you think sometime in 1996 he became, or Mr.
Graham

10 became less friendly towards Ms. Varner?

11 A. Say that last section?

12 Q You think sometime in 1996 Mr. Graham became less
13 friendly with Ms. Varner?

14 A. Yes.

15 Q And you don't know why?

16 A. I have my thoughts, but I didn't know why then. And I
17 didn't -- I guess I'll say I don't have any thoughts
18 back then as to why it was deteriorating.

19 Q In between that time of 1995 and 1996 that we've --
that

20 you just were describing, was the consensus of the
21 office or rumor mill going about that Mr. Graham and
22 Ms. Varner were having a fling or a relationship that
23 was romantic?

24 A. I think he wanted people to believe that.

25 Q Did people in the office believe that?

did 1 A. I didn't, and I don't know that any of my co-workers

2 or didn't.

3 Q Could some of your co-workers have concluded that or
4 thought that?

5 A. I would have to say not with any proof.

6 Q Did you ever have anyone say to you, hey, I think
7 Mr. Graham and Ms. Varner, or Barbara and Gary are
8 having a romantic relationship?

9 A. No.

similar 10 Q Did you ever overhear that comment or something
11 to this?

12 A. No.

picked 13 Q So what makes you believe other persons may have
14 up on or thought that?

allude 15 A. Other people have commented to me, the general feeling
16 of the office was Gary wants to have an affair. And
17 people have made comments, I've heard co-workers

18 to this as in, yeah, he wants her. But I did not hear
19 anybody ever say, yes, they've had sex and I know it.

had 20 Q Okay. So there may have been an assumption that sex
21 occurred, but no one could prove it? Is that --

22 A. I don't think people assumed it, I really don't. I
23 think they believed it was all in his mind.

24 Q Did Ms. Varner ever say anything to you about romantic
25 ties to Mr. Graham?

1 A. Never.

you

2 MS. WALLET: Ms. Green, are you all right? Do

3 need to have a break?

4 THE WITNESS: I'm fine, thank you.

5 BY MR. ADAMS:

6 Q Two employees working in the same office, having a
7 romantic relationship, is that inappropriate, to you?

8 A. It's dangerous.

9 Q Why do you say dangerous?

apart,

10 A. If you take two equals and the relationship falls

11 well, hopefully those in charge can help mediate and

12 keep it from becoming an office issue. If it's a

13 successful relationship and they get married, well.

the

14 Q Two employees working in the same county but not for

15 same employer having a romantic relationship, is that

16 inappropriate?

don't

17 A. If neither are married, I guess that's legal, so I

18 want to judge any further than that.

19 Q Uncomfortable waters. Who's Troy Wiser?

20 A. He's a police officer that used to work in Newville.

21 Now he works for Mt. Holly borough police.

or

22 Q Uncomfortable waters. What relationship do you have

23 did you have with Mr. Wiser?

24 A. We used to work a lot together because of the caseload

25 that I had. And because of knowing him on a

1 professional level, I got to know him on a personal
2 level, and we were friends and we are still friends.

3 Q Were you romantic with Mr. Wiser?

4 A. Are you asking if I had sex?

5 Q Okay.

6 A. The answer is no. He's not my boyfriend, never was.
He

7 was someone who showed me attention after I was
8 divorced, and I appreciated his friendship.

9 Q The attention that Mr. Wiser -- is he Officer, Police
10 Officer Wiser?

11 A. Yes, he is. He's single as well.

12 Q Police Officer Wiser is with what department?

13 A. He's now with Mt. Holly. At the time he was with
14 Newville.

15 Q And the attention that Officer Wiser showed you, do
you

16 think that that was inappropriate?

17 A. No, because that had to do with -- that was on a
18 personal level outside the office. It did not prevent
19 me from doing my job, and he did not use his job to
20 bully me into or persuade me against helping someone
or

21 doing something, or -- it had no influence over my
22 duties.

23 Q But you, in fact, did work with Police Officer Wiser
on

24 projects and things; isn't that correct?

25 A. Him as well as many others, other police officers.

1 Q Have you ever heard the phrase earning overtime while
2 seeing Wiser?

3 A. No.

4 Q Are you familiar with Chief Vaughn Smith?

5 A. Yes.

6 Q Was he Officer Wiser's chief at the time?

7 A. No. He was a sergeant at the time.

8 Q Okay. Do you know what -- was he the person that or
9 the, in the hierarchy of the office that Police

Officer

10 Wiser reported to? Was he the supervisor of Officer
11 Wiser?

12 A. No, not that I'm aware of. I would imagine Chief
13 Hershey would have been at that time.

may

14 Q Okay. Did you ever hear any comments by others who
15 have given an opinion or a comment about your
16 relationship with Officer Wiser when you were
17 interacting with him?

the

18 A. Yes. Gary came in, into my office when I was across
19 hall in Adult and I was in Buck McKenrick and Mike
20 Piper. And he knew that I was in Newville a lot. He
21 sees my time sheets so he would know where I spent my
22 time. And he was, I'm going to say tried to give
23 fatherly advice that he didn't think Troy Wiser was an
24 appropriate relationship for me.

25 Q Okay. Mr. Graham had observed you spending a lot of

1 time in Newville, that was with Officer Wiser; is that
2 correct?

don't

3 A. I guess. I mean, I guess through my time sheet, I
4 know.

on

5 Q That would have been during office hours if that was
6 the time sheet; is that correct?

7 A. Probably after hours, because I had a lot of cases,
8 there were several I would say, like, intensive cases
9 where Bill Brandt and I had probably five or six
10 Newville kids, and I was doing some intense work on my
11 kids and I would get calls sometimes regarding other
12 kids.

13 Q And while out in Newville you would see Officer Wiser,
14 correct?

15 A. I live in Newville, so I see him, all the officers.

16 Q So did the phrase or the comment earning overtime, I'm
17 assuming you're earning overtime at the time, right?

18 A. I'm sure there were on occasions.

little

19 Q So earning overtime while seeing Wiser might be a
20 accurate when it comes to your scenario, in fact; is
21 that correct?

the

22 A. I never heard that phrase till today. I would say I
23 earned overtime, not because of Wiser but because of

juveniles.

24 kids, the names who were attached, Middleton,
25 Ballencourt. I could give you a list of the

ask 1 Q Okay. I don't need that. Just by chance, I have to

2 this question, anyway, how did you prepare for today's

3 deposition?

4 A. Prayed a lot. I'm not sure what you mean.

today 5 Q Did you have any discussions with anyone prior to

6 about the deposition or your testimony today?

7 A. Not -- not about my testimony, but I asked Barb a lot,

8 like, where is this going to take place. I mean,

9 initially I was instructed to go down the street. I

10 asked her about the office, you know, is there

windows; 11 if I have to go to the bathroom, can I get up and go,

12 that kind of stuff.

13 Q Did you ever discuss with Ms. Varner what you would

14 testify about today?

sense. 15 A. No. She knows, because I -- we lived it, in one

16 But I've not told her anything in particular that I'm

17 going to say.

18 Q Okay. How about her attorney, Debra Wallet, did you

19 ever have a conversation with Ms. Wallet?

20 A. I never met her till the last time I was subpoenaed to

21 go down the street, and that was just to say hello. I

22 never met her before, never talked to her.

of 23 Q Did you review any documents prior to this deposition

24 today?

25 A. Just the invitation to come here.

1 Q Okay.

it

2 MS. WALLET: That's the first time I ever heard

3 as an invitation.

4 MR. DELLASEGA: A very kind way to phrase it.

5 BY MR. ADAMS:

6 Q Do you like Mr. Osenkowski?

7 A. I think he has a good sense of humor.

8 Q Do you like him as chief of the Juvenile Probation

9 Department?

would

10 A. I've never been a chief of anything, but I think I

11 run things differently than he does.

12 Q How does Mr. Osenkowski run things?

13 A. Pardon?

14 Q How does Mr. Osenkowski run things in the office?

hand,

15 A. He's very hands off. A statement shortly after I was

16 hired, it was a rather flattering statement on one

to

17 he said, I don't -- the insinuation was I don't have

18 micromanage you, I hire good people to do the job, so

19 just do the job.

took

20 Q Who was Mr. Osenkowski's -- who was chief before he

21 over that position?

22 A. That was Ken Bolze.

23 Q Is it true that Ken Bolze also had that kind of

24 hands-off attitude when it came to his Juvenile

25 probation officers?

1 A. I don't think I could agree or disagree with that
2 statement. I don't -- I didn't get to know Ken very
3 well. He was gone within probably a year of me
coming.

4 Q But you don't know otherwise, whether -- you don't
know?

5 A. I just don't.

6 Q Very well. How long have you known Mr. Osenkarski?

7 A. Since the day I got hired.

8 Q Okay. If you have a problem in the office, do you
feel
9 uncomfortable going to him for any problems that you
10 might want to discuss?

11 A. Now or then?

12 Q When you say then, what do you mean by then?

13 A. Then when the problems were when Gary was there? I
14 would never have gone to Gary or -- I'm sorry, I would
15 never have gone to Joe.

16 Q Because Gary would have been the line person to talk
to
17 before talking to Joe?

18 A. Correct. And they're, they were what I perceived to
be
19 very good friends.

20 Q And now, is Mr. Osenkarski more approachable now? Is
21 that what your testimony is?

22 A. I think because of all this, the reason we're here
23 today, I think he would be more willing to listen, if
I
24 were to approach him.

25 Q But Mr. Osenkarski never said to you don't come talk
to

1 me if you have a problem, did he?

2 A. The only time I ever heard him tell me not to call him
3 or talk to him was regarding after-hour issues,
4 regarding emergencies. He says: Don't call me, I've
5 done my time, call someone else.

6 Q How long have you known Gary Graham?

7 A. I've known of him because of living in the same town,
I
8 would say I possibly became aware of who he is or
who
9 he was, maybe the late '70s, '80s, just because he
lived

10 between where I lived and my parents' business and I
11 would walk past the house where he lived.

12 Q And what was your opinion of Gary back then?

13 A. He was older so I really didn't have any first --
like,
14 we didn't go to school together or anything. I didn't
15 have any one-on-one contact that I can recall with
him.

16 Q All right. Was he energetic?

17 A. Yes.

18 Q Is Gary an excitable person, would you say?

19 A. That he is.

20 Q Has he always been excitable?

21 A. From what I can recall, from just the atmosphere
around
22 town.

23 Q Do you like Gary, by chance?

24 A. Not anymore.

25 Q When did you not -- when did you stop liking him?

a 1 A. When he showed that he did not have the ability to be

2 decent supervisor or friend.

3 Q And when did he show that to you?

4 A. From my observations of how he treated people in the
5 office, back starting in 1995, '96.

6 Q You kind of hand gestured toward Ms. Varner. Are we
7 really talking about Ms. Varner?

8 A. No. That was just a gesture. I talk with my hands.

9 Q Sorry. How did he treat people in the office?

10 A. He was rude. He would yell if he felt like it. He
11 would try to belittle people. Whatever made him feel
12 like a better supervisor, I guess.

13 Q Is it possible that in Mr. Graham's mind when he was
14 being this way, you say he wanted to be -- was he
trying
15 to be a better supervisor? Is that possible?

16 MS. WALLET: I'll object to the form of the
17 question. Anything is possible, and it also asks this
18 witness to speculate on someone's intention.

19 BY MR. ADAMS:

20 Q Was Gary like that toward everyone in the office?

21 A. I would say not everyone. I can't recall him ever
being
22 loud, rude, obnoxious, whatever, bullying, towards,
23 like, Sam Miller. I can't remember him being loud
24 towards Denny Drachbar or towards Hank Thielemann.

I've
25 heard him holler at Joe and I've heard him holler at

1 Barb. I've heard him holler at me, I've heard him
2 holler at Nick, Nick Barrelet.
3 Q Besides those, I think you named four persons in the
4 office that he didn't holler at, Gary probably
hollered
5 at everyone else in the office at some time or
another;
6 is that safe to say?
7 A. Probably.
8 Q Have you personally observed Mr. Osenkarski say
anything
9 of a sexual nature in the office?
10 A. Yes.
11 Q What did you observe?
12 A. The first thing that comes to my mind was a comment
that
13 he made when he was standing out in the main office
14 area. The comment was not made to me. And it had to
do
15 with a lady friend of his. I'm not sure of the name
of
16 who that was, if he even said the name. Where he
17 commented to canning or pickling peppers from his
garden
18 and his hands had pepper residue on his hands, and he
19 referenced to having an intimate relationship with his
20 ladyfriend and how the residue burned her.
21 Q And you said that he wasn't saying it to you?
22 A. I believe it was towards the secretaries. They were
the
23 only ones out in the front office at the time. Fran,
24 Kathy. I came out of my office to pick up my mail or
do
25 a fax, whatever, and I stepped into the middle of that

1 comment.

2 Q So Fran and Kathy were present when Mr. Osenkowski
made

3 this comment?

4 A. I remember the two of them, and I believe the other
two

5 secretaries may have been there as well.

6 Q Okay. And you weren't present but you overheard it;
is

7 that what you testified to?

8 A. I walked into the middle of it. He was out there
that's

9 already and I came out to pick something up, and

10 when I heard him make the statement about his peppers.

11 Q Okay. You were offended by that?

12 A. That's private. That's between him and his
ladyfriend,

13 not for me and the secretaries to hear.

14 Q Did you share with Mr. Osenkowski your displeasure?

15 A. No, I did not.

16 Q Did the other women in the office who heard the
comment,

17 and I guess it was more directed to them than you, did
18 they share their displeasure?

19 A. They did not say: Joe, that's inappropriate. I would
20 have to say they just continued their work. And seems
21 to me Fran made a comment as in, oh, that's not good,
or

22 something. But seems to me they tried to ignore him.

23 Q So they didn't seem bothered?

24 A. I wouldn't say that, either.

25 Q Ms. Varner was nowhere around when the comment was
made;

1 is that correct?

2 A. Correct.

3 Q What year did this occur?

4 A. I can give you the exact date.

5 Q Okay. You have notes?

6 A. Well, I figured you would ask me dates and I didn't
want

7 to sound too stupid.

8 Q What have you got there?

9 A. I made notes in my appointment books --

10 Q Okay.

11 A. -- as to things that bothered me and things that I
12 thought may be important at a later date.

13 Q Okay. And you made the notes for the purpose of?

14 A. For me. If I ever decided to quit, if I ever thought
I

15 was going crazy and I was going to do what with, I
don't

16 know. But I figured I needed to be more accurate with

17 what any complaints that I make. Any complaints that
I

18 make I figured should be as accurate as possible.

19 Q You think you might sue one day?

20 A. In hindsight, I think I should have.

21 Q Well, what do you have in front of you that indicates
or

22 would give me an answer to my question about the date
of

23 Mr. Osenkarski's comment?

24 A. January 27th of 2000.

25 Q Okay. And do you have any idea how, assuming Ms.
Varner

1 knows about this incident, how she found out about it?

2 A. About the peppers statement?

3 Q Yes.

4 A. I'm sure I told her.

5 Q And when did you tell Ms. Varner about it?

6 A. I don't know.

7 Q Were you aware at the time you told Ms. Varner about
the

8 comment that she had a complaint about sexual

9 harassment?

10 A. I knew she was bothered by what was going on at that
11 time.

12 Q So you were helping her by giving her information?

13 A. I don't -- I'm sure this does help her, that I kept
14 this, but I think my intent was I can't believe it's
15 still going on. And that was part of his statement.

I

16 maybe shouldn't say this for sexual harassment issues,
17 but -- he told his comment, anyhow.

18 I think my reason for telling her was I was
19 appalled that we've had sexual harassment training,
20 we've been told watch yourself, don't be talking about
21 anything of this nature, and he still chose to do it.

22 Q What was Ms. Varner's response to you sharing this
23 information with her?

24 A. I don't believe she said or did anything in
particular.

25 I would have to say probably just dumbstruck, like

on. 1 dumbfounded, like, I can't believe it's still going

her 2 Q Did you tell her over the telephone or did you tell

3 in person?

4 A. I probably told her in person. Probably the next
5 working day that I saw her I probably told her.

6 Q When you heard this comment did you complain to anyone
7 or report it to anyone?

8 A. No.

9 Q Have you ever heard Mr. Osenkarski say anything else
10 that you thought was of a sexual nature?

11 A. Sexual nature?

just 12 Q Yeah, in the office. If that's it, that's okay. I

13 want to know.

at 14 MR. ADAMS: Let the record reflect she's looking

15 her notes.

16 BY MR. ADAMS:

17 Q What page are you on?

about 18 A. I don't have them numbered. He had made a comment

19 women at training, or, I'm sorry, on his vacation,
20 looking like whores.

21 Q Women on his vacation looking like whores. What date
22 was this?

23 A. February 14, or I'm sorry, that -- July 14th of 1997.

24 Q Mr. Osenkarski was on vacation during this observation
25 of his --

the

- 1 A. His comment was women on his vacation looked like
2 whores.
- 3 Q Where was he on vacation?
- 4 A. I don't know.
- 5 Q Who did he make the comment to?
- 6 A. Towards Fran and Kathy. He was standing in front of
7 secretary's desk.
- 8 Q In both these examples that you've given me, Fran and
9 Kathy were the listeners or the receivers of the
10 comments; is that correct?
- 11 A. Correct.
- 12 Q And this comment wasn't made to you; is that correct?
- 13 A. Correct.
- 14 Q It wasn't made to Ms. Varner; is that correct?
- 15 A. Correct.
- 16 Q How did you overhear it?
- 17 A. It was outside my office door where it was made.
- 18 Q Did you share that information with anyone?
- 19 A. Not that I recall.
- 20 Q Did you report or complain to anyone?
- 21 A. No.
- 22 Q As far as you know, Fran and Kathy didn't complain to
23 anyone as well; is that correct?
- 24 A. Correct.
- 25 Q Is that it? In terms of Mr. Osenkarski?

1 A. In regards to sexual harassing, sexually indicative
2 comments.

3 Q Comments that were made in a sexual nature or tone.

4 A. I have to say yes, that that's it regarding any sexual
5 comments.

6 Q That's not a bad thing.

7 A. That's a good thing.

8 Q By chance did Ms. Varner ever discuss with you her
9 relationship with her husband? Strike that.

10 Do you know Lee Varner?

11 A. Yes, I do.

12 Q How well do you know Lee Varner?

13 A. I would probably be able to pick him out of a crowd,
but

14 I don't have any -- I've probably not had more than a
15 paragraph of conversation with him.

16 Q And did Ms. Varner ever talk to you about her
17 relationship with her husband at all?

18 A. Yes.

19 Q What did she say about her husband?

20 A. She shared information regarding him being an employer
21 or employee at AMP. I knew he worked there. And I
knew

22 there was problems where people were getting laid off
23 and I know he's not working for AMP any longer. I
know

24 he buys the groceries because he's unemployed. I
guess

25 he's retired. And she has shared about things that he

1 does for her and vice versa.

2 Q What kind of things does he do for her?

3 A. Like buying the groceries. I thought that was kind of
4 neat, because my husband never did that.

5 Q What kind of things does she do for him?

6 A. She'll stop on the way home sometimes and pick up food
7 or, you know, maybe take a sub or sandwich home,
8 something that he might like.

9 I know he golfs a lot, and she would make
comments

10 about, you know, I'm going to say allowing him to
golf.

11 I mean, she never stood in his way of things that he
12 would enjoy.

13 Q Sure. He golfs a lot. Do you know how often? Did
she
14 ever tell you how often he actually golfs?

15 A. I would guess on a weekly level, he's out probably
once
16 a week, at least.

17 Q Do you know what day of the week, by chance?

18 A. Oh, probably whenever there's not rain or snow on the
19 ground. I don't think he has a preference. I think
he
20 likes golfing regardless. I don't know that there's
any

21 given day.

22 Q Has she ever complained to you about anything?

23 A. About Lee?

24 Q Sure.

25 A. Never.

1 Q Has she ever complained to you about anything?

2 A. Just about Gary.

3 Q Has she ever complained to you about Lee playing too
4 much golf?

5 A. No.

6 Q Would you think it was an unreasonable complaint for a
7 wife to complain about how much her husband golfs
8 instead of spending time with her?

9 A. That would be a fair complaint, but I think his
golfing
10 happened whenever she wasn't home. I don't -- I never
11 heard her make that an issue in their marriage.

12 Q Okay. Was it your understanding that when Lee was
13 golfing, she had other plans doing something else? Is
14 that -- so it never became an issue?

15 A. No.

16 Q So from your understanding, while Lee was golfing, she
17 was probably doing something else to entertain
herself?

18 Does that sound accurate?

19 A. I would say she was either working, I mean, on the job
20 working here.

21 Q Okay.

22 A. From what I'm aware, he only golfs whenever she's
23 working. Or maybe she's golfing with him on occasion
or
24 something.

25 Q Does she golf with her husband?

1 A. She said she has.

2 Q How often does she golf?

3 A. I don't know.

4 Q Did Ms. Varner ever talk to you about Gary's
5 relationship with his wife?

6 A. Yes.

7 Q What did she say?

8 A. She has said that he has destroyed figurines or
9 decorative items in the home. She has told me that

Gary

10 has told her about inadequate sexual relations between
11 him and his wife.

12 Q Is that it?

13 A. That's all I can remember.

14 Q Did you find it strange that he would talk to Ms.
15 about things like that?

Varner

16 A. Yes.

17 Q You agree that's not normal conversation to have with
18 someone?

19 A. Yes.

20 Q You think that the things that Gary shared with
21 Ms. Varner about his wife was when they were friendly,
22 that being he and Ms. Varner were friendly at that

time?

23 A. When she, when Barb shared that information with me,
24 that was whenever his intimidation and bullying had
25 already started. Because whenever Gary told Barb the

if 1 information, if that's whenever they were friendly or
2 they were not friendly, I don't know, when the two of
3 them had that information.

comments 4 Q Did you ever observe Gary making inappropriate
5 in a sexual nature in the office?

6 A. Yes.

7 Q What did you observe?

8 A. The first thing that comes to my mind was at the
9 photocopy machine, there was a case, a juvenile case
10 that came in, and part of her juvenile file included I
11 guess it was more homosexual material. It was part of
12 the file regarding, what I would I say, like,
13 lady. contraband, stuff that we had taken off this young

14 And I remember Gary making photocopies of this
15 paperwork. He had asked me for it because I had the
16 sexually file. He asked me for paperwork regarding the
17 explicit stuff. And he was making photocopies. And I
18 have the date here of February 28th of 1997.

19 MR. ADAMS: Please let the record reflect she's
20 looking at the first page of her notes.

21 BY MR. ADAMS:

22 Q Okay. What date again was that?

23 A. February 28th of 1997.

24 Q Okay.

25 A. And for me to relay this perhaps I should just read
off

1 my notes? Is that appropriate?

2 Q Okay, sure.

3 A. I wrote down here a comment from Gary Graham regarding
4 Joe Osenkarski photocopying, as he put it, man parts,
5 and faxing this to two females that they met at a
6 training. And Gary told this to me and Barb Varner
7 while Gary was standing at the copy machine copying
8 underground and homosexual stuff. And I believe Gary
9 called the information the faggot stuff from the
10 Linsenhach file.

the

11 And to further explain what I wrote there, I

wrote

12 to myself that this sounded like that this had been

done

13 in the recent past, the photocopying of the man parts,
14 was done in the recent past. The females who received
15 it believed it was an actual photocopy and Gary had

said

16 it was a dildo that they had photocopied, in fact.

17 Q And Gary made this comment to you?

18 A. Yes.

19 Q Who else was -- was anyone else around?

20 A. Barb Varner. It was done out in the main office at

our

21 copy machine.

22 Q And this is February 28th, 1997?

23 A. Correct.

24 Q And when the photograph, the Xeroxing is taking place;
25 is that correct?

but

- 1 A. Correct.
- 2 Q Did you complain to anyone about the comment?
- 3 A. Just to Barb, I'm sure. I'm sure it was no one else
- 4 Barb, and probably to Barb.
- 5 Q Do you know if Barb Varner complained to anyone about
- 6 that comment about the actions?
- 7 A. I'm not aware.
- 8 Q Mr. Osenkarski wasn't around at the time; is that
- 9 correct?
- 10 A. Correct.
- 11 Q So you don't know if Mr. Osenkarski actually said
- 12 anything or had anything to do with this particular
- 13 incident?
- 14 A. Correct.
- 15 Q Any other comments that you can think of or refer to
- 16 that Mr. Graham would have said that were of a sexual
- 17 nature?
- 18 A. I will say no.
- 19 Q Any behavior by Mr. Graham that you thought was sexual
- 20 in nature that you thought was inappropriate?
- 21 A. Just his attention to Barb. I'm not sure if --
- 22 Q Paying any attention to Barb that you thought -- any
- 23 acts by Mr. Graham you thought were inappropriate?
- 24 A. Yes.
- 25 Q What are they?

1 A. It was at a training at the prison, it was an OC
2 training. And I remember he patted or slapped or
3 grabbed at her butt, her derriere, her behind.

4 Q What's the date of this?

5 A. I don't know if I have -- yes, I do.

6 Q You have that in your notes?

7 A. I do. That was October 5th of 1995.

8 Q Okay. This is the time period where you testified
9 earlier that they were actually getting along pretty
10 well; is that correct?

11 A. Correct.

12 Q And did Ms. Varner complain about the patting on the
13 butt?

14 A. She covered her butt. She put her hands behind her
15 butt. How the incident occurred, we were walking
16 through a doorway. First was Barb, second was Gary,

and

17 I was third.

18 Q Okay.

19 A. She scooted forward and put her hands behind her butt.
20 And I asked him, I said: What do you have to do to be
21 treated like that? And his comment was: I've known

her

22 longer than you .

23 Q Okay. Did Ms. Varner put her hands on her butt before
24 Gary touched it or after?

25 A. It was after. She didn't know he was going to grab

it.

was 1 She couldn't have seen. She was facing forward, he

2 behind her. She didn't know that was coming.

3 Q And Mr. Graham's comment was: I've known her longer

4 than you?

5 A. Correct.

6 Q But that's not necessarily true, is it?

he 7 A. He's known who I am just from being in Newville, but

8 didn't know me to have a conversation with me.

9 Q But in actuality, you've actually known from your

isn't 10 understanding, Mr. Graham longer than Ms. Varner;

11 that true?

12 A. Probably.

13 Q Ms. Varner didn't complain at all to you about that,

14 that touching?

15 A. She didn't say a word to either one of us.

16 Q And you didn't report that to anyone, did you?

it 17 A. My supervisor was him. I didn't feel I could report

18 to anybody.

19 Q And from your understanding, Ms. Varner didn't report

20 that to anyone as well?

21 A. I don't know.

indicates 22 Q But do you know? You have no information that

23 that she reported it?

24 A. Correct.

25 Q Did Ms. Varner and Mr. Graham take trips often

together?

1 A. In the beginning, whenever we were recent or new or
2 fresh employees.

3 Q How often were these trips?

a

most

4 A. I'm not sure I could even give a guess. If there was
5 trip a week and he was involved in it, he asked her
6 all the time.

7 Q So if Gary or Mr. Graham had the option of picking or
8 teaming up with someone, was it probable that he would
9 pick Varner over anyone else? Is that your
10 understanding?

11 A. Perhaps I should back up and explain.

12 Q Okay.

remember

13 A. The day that Barb and I were hired, there was a third
14 person hired, Mark Galbraith. He took Mark, Gary took
15 Mark and I on a trip on one occasion that I can
16 the two of us went together, and that was to George
17 Junior. That was one of those long trips.

18 Q Sure.

initially.

trips

19 A. And we were new employees and he took us. And I'm
20 assuming that's why he took her -- took Barb

hired

Is

21 But after the new employee-ness wore off, then the
22 were primarily with Barb.

23 Q And this is at the time period when you were first

24 between February of '95 and sometime the end of '96?

25 that about right?

1 A. Yes.

2 Q And how often would these trips take place?

3 A. That's why I don't remember. I mean, it depends on
when
be
of
--

4 children or juveniles need to be placed. There would

5 reviews and they would occur every three months, six

6 months, it was various reviews. I wouldn't be aware

7 how many reviews, opportunities there were. I really

8 I couldn't tell you if it was once on week or three

9 times a week or once a month. It varied.

10 Q Would once a week be unheard of?

11 A. That would be a lot. You wouldn't be able to do your

12 other caseload very well if you were gone that often.

13 Q And when Mr. Graham and Ms. Varner teamed up on trips,

14 were they all-day trips, typically?

15 A. It was generally long-distance trips, which would be,

16 you know, maybe eight hours.

17 Q In the converse, would Mr. Graham possibly pick
someone

18 else in the office for a shorter trip?

19 A. I don't know that he did many short trips. I'm not

20 aware of him going on anything other than the long-

21 distance George Junior trips.

22 Q Okay. And when Mr. Graham would come and choose

23 Ms. Varner for most of these long trips, did you ever

24 observe Ms. Varner complain?

25 A. I would have to say I never heard him ask her. I
mean,

how 1 I wasn't -- I didn't share an office so I don't know
2 those arrangements were made.

with 3 Q When Mr. Graham would assign Ms. Varner to team up
4 him for a long trip, did she complain?
5 A. Not up front initially to me.

6 Q So between 1995 and sometime in '96 when things, when
7 something suddenly went wrong between the two of them,
8 she didn't complain; is that correct?

any 9 A. That's only part of it. See, I don't think Barb or
10 co-worker would complain until -- who's going to
11 complain to me when they don't know me very well? And
I 12 think that was the situation with our relationship.

If 13 she complained or had concerns, she wasn't going to do
14 it to me because she didn't know me that well. And
15 there would have been no benefit in her complaining to
16 me.

17 But after a while, I think you can only take so
18 much and she got mad, and it was -- she said she had
had 19 enough, and I believe that's whenever -- and she knew
me 20 well enough then to know that I, you know, could be
21 trusted and sympathized with her situation.

22 Q At that point did she ever complain to you about the
23 trips, the frequent trips she had with Mr. Graham in
the 24 past?
25 A. Yes.

1 Q What did she say?

2 A. Simply that she didn't think it was fair that he chose
3 her.

4 Q That's it?

5 A. That was about it.

6 Q Okay. Tell me about the trip that you had with
7 Ms. Varner that you wanted to discuss earlier. Do you
8 remember that? It was a long trip and I think
9 Mr. Graham said that you were to leave by eight

o'clock?

10 Do you remember that trip?

11 A. It was -- I don't know that I have the date for that,
12 but I remember the day itself because I had plans to
13 leave at 8:00, and there was an emergency with one of

my

14 cases and that juvenile showed up in the office that
15 morning. And I remember we didn't get started out of
16 the office that morning because of that other

emergency.

17 And he didn't, he meaning Gary, did not ask for an
18 explanation as to why we did not leave at 8:00, he

just

19 made it clear that we were supposed to be leaving at
20 8:00 and he was highly upset that we did not.

21 Q Did Mr. Graham share that with you before you left the
22 office?

23 A. Of that day?

24 Q Right.

25 A. Yes.

1 Q So you're supposed to leave at eight o'clock. A
2 juvenile comes in unexpectedly and you handle the
3 situation with the juvenile. You're about to leave,
and
4 then Mr. Graham says he thought you were leaving at
5 eight o'clock? Is that how it played out?

6 A. Basically, yes.

7 Q So what time did you actually leave?

8 A. I believe it was nine o'clock.

9 Q What time were you expected at your location, your
place
10 of destination?

11 A. That I don't remember.

12 Q Were you on time?

13 A. I would have to say yes. I'm not sure if it was a
14 placement trip that we were going, as in we were
taking

15 someone or if we were bringing someone back. I don't
16 recall the details of the trip itself.

17 Q Where did you go? I know you don't know the details,
18 but assignment-wise, where did you go?

19 A. It may have been Lourdesmont. It may have been George
20 Junior. I would guess one of those two places.

21 Q So you arrived in Lourdesmont on time. You
successfully
22 complete the assignment once you're there?

23 A. I'm sure we did.

24 Q Okay. And you eventually I guess left the facility;
is
25 that correct?

1 A. Correct.

2 Q Okay. And what time was that?

3 A. I don't recall. I'm not sure.

4 Q Do your notes reflect anything from that trip at all?

5 A. See, I'm not sure if you're -- I don't think we're

6 talking about the same Lourdesmont trip. If you're

7 aware of another Lourdesmont trip?

8 Q Well, no. I'm probably referring to the same
situation

9 where you wanted to talk about docking of an hour.

Does

10 that sound familiar?

11 A. Okay. That's a separate Lourdesmont trip.

12 Q Let's talk about the one you wanted to talk about
first.

13 You were on a trip with Ms. Varner. That's a separate

14 trip to either Lourdesmont or somewhere else; is that

15 correct?

16 A. I don't have any -- the whole point of that trip to

17 wherever it was was just the fact that he made it
clear

18 that we were supposed to leave at 8:30, or I'm sorry,

at

19 8:00, and we didn't leave till later.

20 Q Okay. Was that trip before the other trip where you
and

21 Ms. Varner were eventually docketed an hour of pay or

22 overtime pay?

23 A. The trip where we were docketed occurred first, and
that

24 was -- to me, I guess, that was the comment for his

25 direction to leave at 8:00.

about 1 Q Okay. So this other incident that you're talking
hour 2 was after that trip where you were both docketed an
3 overtime pay?
4 A. The dock in pay came first?
5 Q That incident first?
6 A. Yes. Okay.
What 7 Q Okay. Let's talk about that particular incident.
8 happened on this day? In your words.
and 9 A. It was a trip to Lourdesmont, and it was Barb Varner
10 I. My notes may tell me who the juvenile was that we
11 took up there.
12 Q I don't want notes.
13 A. Okay. But I remember --
14 Q I don't want to ask that.
15 A. Okay. But I remember we went up, it may have been my
16 first trip to Lourdesmont. But I remember we went up,
17 we did our business, which was maybe an hour,
something 18 like that. And it seems to me I got a tour of the
19 facility the same time, which didn't take too long.
20 It's a rather small agency. I believe there's a Pizza
21 Hut located there at the same stop. I think it was
22 Pizza Hut that we ate at. We turned around and came
23 home.
believe 24 On the way home there was an accident on, I
25 it's 81 or something. I forget the road that we took,

1 the highway, but there was an accident on the highway.
2 The highway was shut down. And I was driving at that
3 point and had to detour. Followed the rest of the
4 people to detour to get back on the highway. And in
his
5 mind, we took too long and he refused to pay us for
the
6 length of the trip.

7 Q How long were you detoured off the main highway?
8 A. It was only about an hour. It wasn't that -- it
wasn't
9 that long that we were late. I mean, it wasn't like
we
10 had an extra six hours that we were trying to claim.
It
11 wasn't anything extra we were trying to claim. We
were
12 trying to claim exactly what the length of the trip
took
13 us.

14 Q Do you know how far off the main highway you detoured?
15 A. I would say miles wasn't very many, but I remember it
16 was slow. It was not much more than turtle movement.
17 It was bumper to bumper going through the back roads.

18 Q On that date did you leave at eight o'clock as
19 instructed?
20 A. We weren't told to leave at eight o'clock until after
21 that incident. I don't recall what time we left on
that
22 day.

23 Q Okay. So you were scheduled to arrive back by what
24 time?
25 A. I don't remember how long it even takes to do the
trip.

eight 1 If the trip normally takes seven hours, it took us
2 hours. There is no scheduled return time. The staff
3 just knows when you're out, do your job and get back
4 when the job's done.

this 5 Q What's the normal workday for you and Ms. Varner at
6 time? Is it 8:30 to 4:30? What was the time period?

7 A. The scheduled office day is 8:00 to 4:30.

officer 8 Q Okay. So if you worked as a Juvenile probation
9 past 4:30, then you're accumulating overtime; is that
10 correct?

11 A. No. You actually accumulate what we call comp time.
12 And I may accumulate comp time today so I can leave
13 early tomorrow for a dentist appointment. As long as
14 you get your 37-and-a-half hours in for the week, it's
15 always been flexible that if you want to work eight
16 hours this day, five this day, 10 the next day, as
long 17 as you get your hours in.

18 Q Okay. And when you and Ms. Varner returned from this
19 trip you were just describing, and I guess Mr. Graham
20 docketed from what you reported one hour of comp time?
21 Is that correct?

22 A. From our time sheets, yes. That's how it became
23 presented to me. Whenever I turned my time sheet in,
24 then he spoke to me about.

hour 25 Q So you and Ms. Varner didn't lose any pay from that

1 of docketing?

2 A. We did lose pay. We lost an hour.

3 Q You did lose pay? But if it's comp time, how does
4 it equal out to pay?

5 A. He didn't grant us comp time or pay. If I put down on
6 my time sheet that I worked nine hours because of a
7 Lourdesmont trip, he made me change my time sheet that
8 gets turned in for pay purposes. He made me basically
9 erase an hour on that. If I worked nine hours, he

made

10 me change it to eight hours and that other hour just
11 disappeared.

12 Q Okay. At that time did you have comp time
accumulated?

13 A. I don't remember.

14 Q Do you know if Ms. Varner had comp time, extra comp
time

15 accumulated?

16 A. I don't know.

17 Q Okay.

18 MS. WALLET: I think I need a break.

19 MR. MacMAIN: I was going to say, we've been
going

20 at it for two hours.

21 (Recess taken from 11:32 until 11:58 a.m.)

22 BY MR. ADAMS:

23 Q Back on the record? Ms. Green, you've handed to all
24 counsel present a copy of your notes that you were
25 referring to earlier in your testimony; is that

correct?

1 A. Correct.

2 Q And it's entitled Debra's Timeline; is that correct?

3 A. Correct.

4 Q And you have notes reflecting from the day at the top

5 1995, I guess APPT is appointment book?

6 A. That's my appointment, book.

7 Q And it's five pages long; is that correct?

8 A. Correct.

9 Q And it ends on the date 2003 appointment book, and I

10 guess it's February 10th of that year?

11 A. Correct.

12 Q Is that the last insert?

13 A. Correct.

14 Q Okay. My question to you is: Are the inserts in this

15 time line contemporaneous with the event?

16 A. Explain.

17 Q In other words, take the very, very first insert.

1995

18 appointment book, I guess October 5th, an incident

19 occurred that you made notes on. You see that at the

20 very top?

21 A. Yes.

22 Q Did that happen, did you insert this on your time, on

23 your time line or in your time line, on the date or

24 contemporaneous in time with the event that you're

25 reporting?

1 A. Yes. The date you're looking at is the date that the
2 incident occurred.

3 Q And that's the date you actually created this document
4 and started --

5 A. Within a day or two I would have inserted that into my
6 date book.

7 Q Okay. So all these insertions into this time line
8 are -- are they contemporaneous in time with the
event?

9 A. Correct.

10 MR. ADAMS: Okay.

11 BY MR. MacMAIN:

12 Q David MacMain. I represent Mr. Graham. I just had a
13 couple to make sure I understand.

14 So if we got your -- if you brought your 1995
15 appointment book and we turned to October 10th of
1995,
16 there would be a reference in that book that would
have

17 this information?

18 A. Correct.

19 MS. WALLET: I'm sorry, I think you meant October
20 5th.

21 MR. MacMAIN: Right.

22 BY MR. MacMAIN:

23 Q And do you still have all these calendar books?

24 A. I'm going to have to say no. I would have perhaps,
25 well, the recent ones. I'm not sure I still have all

1 the old ones or not.

home

2 Q There's a reference on I guess the third page to a

3 calendar, and you have in parenthesis, Avon, A-V-O-N?

4 Is that is calendar you keep at home, a personal

5 calendar?

kitchen

6 A. That would have been a calendar in my bedroom or

7 or somewhere.

8 Q And do you still have that calendar?

9 A. I would have to look in my files.

this

10 Q And this document itself, this time line, when was

this

11 begun to be created? When did you start typing up

12 document?

13 A. The five sheets of paper? The first three pages, yes,

'97.

14 the first three pages were created, well, ending in

15 And I created them in '97 and put them on a computer

16 disc and gave them to some other people to hold for

17 information purposes.

18 Q Let me make sure I understand. At the end of '97 is

three

19 when you created the document, at least the first

20 pages?

21 A. First three pages, I believe.

22 Q And you put it on a disc and you gave it to some other

23 people. Who else did you give it to?

24 A. My parents.

25 Q Anyone else?

1 A. No.

2 Q Did you provide a copy to Ms. Varner?

3 A. No.

4 Q Did you provide a copy to Ms. Wallet?

5 A. No.

6 Q And going forward on the last two pages, was that

7 created at what point? To continue on after '97?

8 A. I went back and reviewed those other appointment
books,

9 '99, 2000, after I knew I was going to have to appear

10 here. So that I typed them up, well, after I got my

11 first invitation to come.

12 Q Okay.

13 A. That would have been a couple weeks ago.

14 Q So the first three pages were done at the end of '97?

15 A. Yes.

16 Q And then the last two pages were done fairly recently,

17 after you knew you were going to be deposed in this

18 case?

19 A. Yes. So I figured I should review my own personal

20 information.

21 MR. MacMAIN: That's all the questions I had.

22 (Discussion held off the record.)

23 MS. WALLET: I think for the record we should

24 indicate that counsel has talked about rescheduling

25 Ms. Green, and she has tentatively agreed to Tuesday,

to 1 the 29th, but she wants to check her office calendar
2 make sure she's available on that date.

3 Could we ask you to contact Mr. Dellasega? Since
4 he was the one who noticed your deposition, you should
5 have information on how to reach him. Would you let
him 6 know whether or not the 29th is acceptable to you?

7 MR. DELLASEGA: If that's a problem, would you
look 8 at the 28th and see whether that's a problem for you.

9 THE WITNESS: I will.

10 (Whereupon, the deposition was continued at
11 12:04 p.m.)

12 * * * * *

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COMMONWEALTH OF PENNSYLVANIA)
) SS.
COUNTY OF DAUPHIN)

I, Emily R. Clark, Reporter and Notary Public in
and for the Commonwealth of Pennsylvania and County of
Dauphin, do hereby certify that the foregoing
testimony
was taken before me at the time and place hereinbefore
set forth, and that it is the testimony of:

DEBRA GREEN

I further certify that said witness was by me
duly sworn to testify the whole and complete truth in said
cause; that the testimony then given was reported by
me stenographically, and subsequently transcribed under
my direction and supervision; and that the foregoing is a
full, true and correct transcript of my original
shorthand notes.

I further certify that I am not counsel for nor related to any of the parties to the foregoing cause, nor employed by them or their attorneys, and am not interested in the subject matter or outcome thereof.

Dated at Harrisburg, Pennsylvania, this 7th day
of
March, 2003.

Emily R. Clark
Reporter - Notary Public

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